



9110-04-P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 117

[Docket No. USCG-2016-0968]

RIN 1625-AA09

Drawbridge Operation Regulation; Youngs Bay, Astoria, OR

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is temporarily changing the operating schedule that governs the Oregon State highway bridge across Youngs Bay foot of Fifth Street (Old Youngs Bay Bridge), mile 2.4, at Astoria, OR. The Oregon Department of Transportation (ODOT) requested to change the operating schedule of the Old Youngs Bay Bridge for several months while work is performed on the north bascule lift. This change will allow ODOT to operate the double bascule draw in single leaf mode, one lift at a time, and reduce the vertical clearance of the non-operable half of the span by five feet.

DATES: This temporary final rule is effective from 7 a.m. on March 1, 2017 to 5 p.m. on October 31, 2017.

ADDRESSES: To view documents mentioned in this preamble as being available in the docket, go to <http://www.regulations.gov>, type USCG-2016-0968 in the "SEARCH" box and click "SEARCH." Click on Open Docket Folder on the line associated with this rulemaking.

FOR FURTHER INFORMATION CONTACT: If you have questions on this temporary final rule, call or e-mail Steven M. Fischer, Bridge Administrator, Thirteenth Coast Guard District Bridge Program Office, telephone 206-220-7282; e-mail d13-pf-d13bridges@uscg.mil.

SUPPLEMENTARY INFORMATION:

I. Table of Abbreviations

CFR	Code of Federal Regulations
DHS	Department of Homeland Security
FR	Federal Register
TFR	Temporary Final Rule
§	Section
U.S.C.	United States Code
ODOT	Oregon State Department of Transportation

II. Background, Purpose and Legal Basis

On November 25, 2016, we published a notice of proposed rulemaking entitled Drawbridge Operation Regulation; Youngs Bay, Astoria, OR in the Federal Register (81 FR 85201). We received no comments on the proposed rule.

III. Legal Authority and Need for Rule

The Coast guard is issuing this rule under authority 33 U.S.C. 499.

The Old Youngs Bay Bridge across Youngs Bay foot of Fifth Street, mile 2.4, at Astoria, OR, has a vertical clearance of 19 feet above mean high water when in the closed-to-navigation position. The bridge operates in accordance with 33 CFR 117.899(b). ODOT requested to change the operating schedule of the Old Youngs Bay Bridge for several months while work is performed on the north bascule lift.

This temporary rule will allow ODOT to operate the double bascule draw in single leaf mode, one lift at a time. One half of the double bascule bridge will have a containment system installed on the north half of the span, which will reduce the vertical clearance by 5 feet from 19

feet above mean high water to 14 feet above mean high water on the non-operable half of the span. Adjusting the existing drawbridge regulation will allow construction workers to complete bridge and highway upgrades before winter of 2017, while having minimal impact on maritime navigation, and no alternate routes are on this part of Youngs Bay into Youngs River. Marine traffic on Youngs Bay consists of vessels ranging from small pleasure craft, sailboats, small tribal fishing boats, and commercial tug and tow, and mega yachts.

IV. Discussion of Comments, Changes and the Temporary Final Rule

We provided a comment period of 30 days, no comments were received. This rule will temporarily amend 33 CFR 117.899(b) by allowing the south lift only to open in single leaf mode, and suspend a full opening.

V. Regulatory Analyses

We developed this rule after considering numerous statutes and Executive Orders related to rulemaking. Below we summarize our analyses based on these statutes and Executive Orders, and we discuss First Amendment rights of protestors.

A. Regulatory Planning and Review

Executive Orders 12866 and 13563 direct agencies to assess the costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits. Executive Order 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. This rule has not been designated a “significant regulatory action,” under Executive Order 12866. Accordingly, it has not been reviewed by the Office of Management and Budget. This regulatory action determination is based on the ability for the Old Youngs Bay Bridge to open half the span on signal, and not delay passage of any mariner. Vessels not requiring an opening

may pass under the bridge at any time. The north lift vertical clearance will be reduced as explained in paragraph III. No alternate routes are available on this part of Youngs Bay.

B. Impact on Small Entities

The Regulatory Flexibility Act of 1980 (RFA), 5 U.S.C. 601–612, as amended, requires federal agencies to consider the potential impact of regulations on small entities during rulemaking. The term “small entities” comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000. The Coast Guard received no comments from the Small Business Administration on this rule. The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities.

While some owners or operators of vessels intending to transit the bridge may be small entities, for the reasons stated in section IV.A above, this rule will not have a significant economic impact on any vessel owner or operator.

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Public Law 104-121), we want to assist small entities in understanding this rule. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact the person listed in the FOR FURTHER INFORMATION CONTACT, above.

Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with, Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency’s

responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1-888-REG-FAIR (1-888-734-3247). The Coast Guard will not retaliate against small entities that question or complain about this rule or any policy or action of the Coast Guard.

C. Collection of Information

This rule would call for no new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501-3520.).

D. Federalism and Indian Tribal Government

A rule has implications for federalism under E.O. 13132, Federalism, if it has a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. We have analyzed this rule under that Order and have determined that it is consistent with the fundamental federalism principles and preemption requirements described in Executive Order 13132.

Also, this rule does not have tribal implications under Executive order 13175, Consultation and Coordination with Indian Tribal Governments, because it would not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

E. Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531-1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the

aggregate, or by the private sector of \$100,000,000 (adjusted for inflation) or more in any one year. Though this rule will not result in such expenditure, we do discuss the effects of this rule elsewhere in this preamble.

F. Environment

We have analyzed this rule under Department of Homeland Security Management Directive 023-01 and Commandant Instruction M16475.ID, which guides the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321-4370f), and have made a preliminary determination that this action is one of a category of actions which do not individually or cumulatively have a significant effect on the human environment. This rule simply promulgates the operating regulations or procedures for drawbridges. This action is categorically excluded from further review, under figure 2-1, paragraph (32)(e), of the Instruction.

Under figure 2-1, paragraph (32)(e), of the Instruction, an environmental analysis checklist and a categorical exclusion determination are not required for this rule.

G. Protest Activities

The Coast Guard respects the First Amendment rights of protesters. Protesters are asked to contact the person listed in the FOR FURTHER INFORMATION CONTACT section to coordinate protest activities so that your message can be received without jeopardizing the safety or security of people, places or vessels.

List of Subjects in 33 CFR Part 117

Bridges.

For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 117 as follows:

PART 117—DRAWBRIDGE OPERATION REGULATIONS

1. The authority citation for part 117 continues to read as follows:

Authority: 33 U.S.C. 499; 33 CFR 1.05-1; and Department of Homeland Security Delegation No. 0170.1.

2. Amend § 117.899 by suspending paragraph (b) and adding paragraph (d) to read as follows:

§ 117.899 Youngs Bay and Lewis and Clark River.

* * * * *

(d) The draw of the Oregon State (Old Youngs Bay) Highway Bridge, mile 2.4, across Youngs Bay foot of Fifth Street, shall open the south half of the double bascule span on signal for the passage of vessels, if at least one half-hour notice is given to the drawtender, at the Lewis and Clark River Bridge by marine radio, telephone, or other suitable means from 7 a.m. to 5 p.m. Monday through Friday and from 8 a.m. to 4 p.m. Saturday and Sunday from March 1, 2017 to October 31, 2017. At all other times, including all Federal holidays, but Columbus Day, at least a two-hour notice by telephone is required. The opening signal is two prolonged blasts followed by one short blast.

Dated: January 18, 2017.

Mark Butt,
Rear Admiral, U. S. Coast Guard,
Commander, Thirteenth Coast Guard District.

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